

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.35644 of 1997

Dated:21.03.2007

Between

L.Sashank Reddy

.....Petitioner

and

1. The Government of AP rep., by  
Its Secretary, Department of Legal  
Affairs, Secretariat, Hyderabad  
and others.

...Respondents

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.No.35644 of 1997

**ORDER:**

This writ petition is directed against an award dated 7.6.1996 made in I.D.No.10 of 1995 on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

The petitioner is the workman and 2<sup>nd</sup> respondent is the Management. It appears that the petitioner raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') seeking the relief of reinstatement with back wages. It was her case that she was employed as Packer in the 2<sup>nd</sup> respondent-factory in September 1991 on weekly wages of Rs.90/-. Subsequently, the 2<sup>nd</sup> respondent directed the petitioner and others to work daily from 9-00AM to 5.30PM with a break of half-an-hour for lunch. After that, their wages were enhanced from

Rs.15/- to 20/- per day. The 2<sup>nd</sup> respondent has been maintaining attendance register and wage register for permanent employees including daily and casual labourers. The attendance of the petitioner was taken in the wage register. There was work for 5 to 10 employees to complete the orders received from the customers. In order to evade payment of more wages, bonus, cover under the ESI Act and Provident Fund Act, the 2<sup>nd</sup> respondent wantedly kept the petitioner and others in daily and weekly wages in spite of their completing 240 days of continuous service. The petitioner and others have worked till 18.11.1994 and the 2<sup>nd</sup> respondent terminated their services orally on the same day evening. It is the case of the petitioner that she had completed 240 days of continuous service preceding the date of termination and that she was not given any notice or was paid wages in lieu of notice pay or retrenchment compensation. Therefore, the action of the 2<sup>nd</sup> respondent in terminating her services is illegal, arbitrary and violative of principles of natural justice, apart from violation of

provisions of Section 25-F of the Act.

The 2<sup>nd</sup> respondent filed a counter denying the allegations made by the petitioner before the Labour Court.

On behalf of the petitioner, WWs.1 and 2 were examined and Exs.W1 to W6 were marked. On behalf of the 2<sup>nd</sup> respondent-Management, MW1 was examined in part on 7.5.1996 and the case was adjourned to 10.5.1996 and as the petitioner was not ready on that day, it was again adjourned to 27.5.1996. On that day, both the parties were absent. Therefore, the Labour Court proceeded with the passing of award on the basis of the material available on record and came to a conclusion that absolutely no evidence was placed before it by the petitioner and the petitioner has failed to establish that she had continuously worked for 240 days and therefore, rejected the ID. Aggrieved by the same, the present writ petition is filed.

None appears for the respondents. Learned counsel for the petitioner strenuously contended that absolutely there is no finding given by the

Labour Court on merits. In fact, MW1 was examined in part on 7.5.1996 and thereafter, the matter was adjourned twice and since the petitioner as well as the respondent were absent, the Labour Court proceeded with the passing of award on the basis of evidence available on record. This amounts to passing of an *ex parte* award by the Labour Court. The arguments on either side were not heard nor the evidence of MW1 was completed nor the petitioner was given an opportunity of cross-examining him. Under those circumstances, the award passed by the Labour Court is erroneous and is liable to be set aside.

There is no necessity to go into all the details. It is a fact that MW1 was examined in part and thereafter, the matter was posted for further examination of MW1. Neither MW1 was examined further nor the petitioner was permitted to cross-examine MW1. The arguments were advanced by the counsel on either side only on the basis of the pleadings. The Labour Court came to a conclusion that the petitioner was not on the rolls of the 2<sup>nd</sup>

respondent-Management and therefore, she is not entitled for any relief as sought for.

I am of the opinion that the Labour Court ought to have proceeded with the matter on merits after hearing both the parties and after giving reasonable opportunity to both the parties to let in evidence. Therefore, the award passed by the Labour Court is contrary to the procedure and also violative of principles of natural justice. Therefore, the impugned award is liable to be set aside.

Writ petition is allowed and the impugned award is set aside and the matter is remitted to the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad for proceeding with the matter on merits and to pass appropriate orders, as per law, after putting the petitioner as well as the 2<sup>nd</sup> respondent-Management on notice and permitting them to lead evidence, within a period of six months from the date of receipt of a copy of this order. No costs.

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21-03-2007

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